

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DONALD RAY GARDNER,

Defendant.

CR 20-70-BLG-SPW

ORDER RE MOTION IN LIMINE

This matter comes before the Court on Defendant Donald Ray Gardner's motion *in limine* (Doc. 34) to exclude from trial evidence of statements Gardner made during a post-polygraph interrogation on May 7, 2019. Specifically, Gardner argues that the statements are inadmissible because (1) they are irrelevant to the charged crimes; (2) Special Agent Smiedala's tactics in obtaining the statements were coercive and not covered by the *Miranda* waiver Gardner signed prior to the polygraph interview; (3) the statements constitute inadmissible character evidence; and (4) the statements are unfairly prejudicial. (*Id.* at 3-10). The Government responded to Gardner's motion stating, “[t]he United States will not present any evidence elicited from Gardner on May 7, 2019, either through testimony or

presentation of the recording and, consequently, does not oppose Gardner's motion.” (Doc. 36 at 2).

Therefore, as the motion is unopposed the Court finds good cause to grant the motion.

IT IS HEREBY ORDERED that Defendant Donald Ray Gardner's motion *in limine* (Doc. 34) is **GRANTED**.

The Clerk of Court is directed to notify the parties of the making of this order.

DATED this 19th day of July, 2021.


SUSAN P. WATTERS
United States District Judge